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10/722,880

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EXAMINER

BEMBEN, RICHARD M

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/722,880

Applicant(s)

PARULSKI ET AL.

Examiner

Richard M. Bemben

Art Unit

2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 7,14-16,21 and 23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-13,18-20 and 24-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 7,14-16,21 and 23 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 5/25/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. This application contains claims directed to the following patentably distinct species:

- (1) Claims 7 and 22
- (2) Claims 6, 8-13, 22 and 24-27
- (3) Claims 14-17, 22 and 23
- (4) Claim 21

The species are independent or distinct because species 1-4 at least have different functionality.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1-5, 18-20 and 28-31 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after

the election, applicant must indicate which are readable upon the elected species.

MPEP § 809.02(a).

2. During a telephone conversation with Thomas Strouse (Reg. No. 53,950) on 24 April 2007 a provisional election was made with traverse to prosecute the invention of species 2, claims 6, 8-13, 22 and 24-27. Affirmation of this election must be made by applicant in replying to this Office action. Claims 7, 14-17, 21 and 23 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### ***Claim Objections***

3. Claim 1 is objected to because of the following informalities: The steps are labeled d, e, f, d. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. **Claims 1, 2, 4, 5, 19, 20 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Needham (US 6,910,147).**

**[Claim 1]** Needham discloses a method for correcting the date/time values associated with digital images captured by a digital camera, comprising:

d) using a digital camera to capture and store a plurality of digital images and to store an associated initial date/time value for each of the plurality of digital images provided by a real-time clock in the digital camera (*c. 1, l. 62 – c. 2, l. 5; c. 2, ll. 16-18; Fig. 1, "110" & "120"*);

e) establishing communications between the digital camera and a separate device providing a current date/time value (*c. 2, ll. 6-23; Fig. 1, "130"*);

f) determining a current date/time value in the digital camera, and a difference between the current date/time value in the digital camera and the current date/time value in the separate device (*c. 2, ll. 6-45*);

d) modifying the initial date/time values associated with each of the plurality of digital images to compensate for the difference between the current date/time value in the digital camera and the current date/time value in the separate device in order to correct the date/time values associated with each of the plurality of digital images (*c. 2, ll. 24-45*).

*Also refer to c. 2, l. 46 – c. 3, l. 37 and Figures 4 and 5.*

**[Claim 2]** Refer to the rejection of claim 1 and Needham further discloses that each of the plurality of digital images and the initial date/time value are stored together in a digital image file (*c. 1, ll. 62 – c. 2, l. 5*).

**[Claim 4]** Refer to the rejection of claim 1 and Needham further discloses that the plurality of digital images and the initial date/time values are transferred from the digital camera to the separate device (c. 2, ll. 6-23).

**[Claim 5]** Refer to the rejection of claim 1 and Needham further discloses that the initial date/time values are modified by the separate device (c. 2, ll. 24-45). Also refer to c. 2, l. 46 – c. 3, l. 37 and Figures 4 and 5.

**[Claim 18]** Needham discloses a method of correcting the date/time values associated with digital images captured by a digital camera (*refer to the rejection of claim 1*) comprising capturing plural images with a digital camera (*or a digital video recorder*) and “marking” the captured images with a time value (c. 1, l. 62 – c. 2, l. 5) and further modifying/correcting the time value associated with the image (c. 2, ll. 6-45). Needham further discloses storing each of the plurality of digital images in a corresponding plurality of digital image files, storing the initial date/time value as date/time metadata in each of the digital image files, and modifying the date/time metadata in each of the digital files to be the corrected data/time metadata (c. 1, l. 62 – c. 2, l. 45). Also refer to c. 2, l. 46 – c. 3, l. 37 and Figures 4 and 5.

**[Claim 20]** Needham discloses a method for correcting the date/time values associated with digital images captured by a digital camera, comprising:

a) initializing a real-time clock in a digital camera to a default date/time value when power is initially applied to the real-time clock (c. 1, l. 62 – c. 2, l. 5);

b) using the digital camera to capture and store a plurality of digital images and associated original date/time values provided by the real-time clock (c. 1, l. 62 – c. 2, l. 5, c. 2, ll. 16-18; Fig. 1, “110” & “120”);

c) receiving a date/time value (c. 2, ll. 6-45);

d) determining a current date/time value of the real-time clock in the digital camera, and a difference between the received date/time value and the current date/time value in the digital camera (c. 2, ll. 6-45); and

e) modifying the original date/time values associated with each of the plurality of digital images to compensate for the difference between the current date/time value in the digital camera and the received date/time value (c. 2, ll. 6-45).

*Also refer to c. 2, l. 46 – c. 3, l. 37 and Figures 4 and 5.*

**[Claim 22]** Refer to the rejection of claim 20 and Needham further discloses that the received date/time value is provided by a separate device (c. 2, ll. 6-35).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 3, 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Needham in view of Nichols et al. (US 2004/0036774), hereafter “Nichols”.**

**[Claim 3]** Needham discloses a method of correcting the date/time values associated with digital images captured by a digital camera and storing the images and the date/time value in a digital image file (*refer to the rejection of claim 2*). However, Needham does not disclose that the digital image file is a JPEG image file.

Nichols discloses a method and apparatus for correcting the date/time values associated with digital images captured by a digital camera ([0048]-[0054]). Nichols further discloses that the plurality of digital images and the initial date/time value are stored together in a digital image file and that the digital image file is a JPEG image file ([0050]). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to store the images and the date/time values together in a JPEG image file as disclosed by Nichols in the method disclosed by Needham as is well known in the art (*refer to Nichols [0050]*).

**[Claim 6]** Needham discloses a method of correcting the date/time values associated with digital images captured by a digital camera comprising communication between a digital camera and a separate device (*refer to the rejection of claim 1*). However, Needham does not disclose that the communication between the digital camera and the separate device is provided using a wireless communications network.

Nichols discloses a method and apparatus for correcting the date/time values associated with digital images captured by a digital camera ([0048]-[0054]). Nichols further discloses communication between a digital camera and a separate device wherein the communication is provided using a wireless communications network ([0035]-[0041]; [0048]-[0054]; *specifically [0054]*). Therefore, it would have been



obvious to one of ordinary skill in the art to provide wireless communication between the digital camera and the separate device as disclosed by Nichols in the method of correcting the date/time values associated with digital images captured by a digital camera disclosed by Needham so that it is not necessary for a user to have a cable or wire to communicate with the separate device.

**[Claim 8]** Refer to the rejection of claim 6 and Nichols further discloses that the wireless communications network communicates with an imaging services provider ([0003]-[0008]; [0037]-[0044]).

**8. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Needham in view of Tsunoda (US 2002/0135685).**

**[Claim 19]** Needham discloses a method of correcting the date/time values associated with digital images captured by a digital camera comprising capturing plural images with a digital camera and storing each of the plurality of digital images in a corresponding plurality of digital image files, storing the initial date/time value as date/time metadata in each of the digital image files, and modifying the date/time metadata in each of the digital files to be the corrected data/time metadata (*refer to the rejection of claim 18*). However, Needham does not disclose using the Exif image format.

Tsunoda discloses storing image data and image metadata using JPEG compression in Exif format ([0032]). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to store the image data in Exif format

as disclosed by Tsunoda in the method of correcting the date/time values associated with digital images disclosed by Needham because Exif is a well known image file format that adds metadata tags to JPEG or other file formats.

**9. Claim 9, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Needham in view of Nichols in further view of Ichihara (US 7,158,171).**

**[Claim 9]** Needham in view of Nichols discloses a method of correcting the date/time values associated with digital images captured by a digital camera that communicates with an imaging services provider. However, Needham in view of Nichols does not disclose transferring the digital images to a remote storage device controlled by the imaging services provider.

Ichihara discloses a method of transferring digital images to a remote storage device controlled by an imaging services provider (*c. 3, ll. 3-12; c. 3, l. 41 – c. 4, l. 28*). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to transfer digital images to a remote storage device controlled by an imaging services provider as disclosed by Ichihara in the method of correcting the date/time values associated with digital images captured by a digital camera that communicates with an imaging services provider disclosed by Needham in view of Nichols in order to make traveling and remote usability more convenient (*refer to the discussion in Ichihara c. 1, ll. 10-43*).

**[Claim 12]** Refer to the rejection of claim 9 and Needham further discloses that the initial date/time values associated with each of the plurality of digital images are modified after the plurality of digital images are transferred from the digital camera (*c. 3, ll. 13-37; Fig. 5*).

**[Claim 13]** Refer to the rejection of claim 9 and Ichihara further discloses printing on of the plurality of transferred digital images (*c. 3, l. 41 – c. 4, l. 28*).

**10. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Needham in view of Nichols in further view of Ichihara and Ohmura et al. (US 2005/0057658), hereafter “Ohmura”.**

**[Claim 10]** Needham in view of Nichols in further view of Ichihara disclose a method for correcting the date/time values associated with digital images captured by a digital camera and further disclose transferring the digital images to a remote storage device. However, Needham in view of Nichols in further view of Ichihara do not disclose that the images are deleted from the digital camera after the plurality of digital images are transferred to the remote storage device.

Ohmura discloses a method of transferring digital images from a digital camera to a remote storage device and then deleting the image from the digital camera ([0137]-[0141]; Fig. 10). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to delete transferred images from the digital camera as disclosed by Ohmura in the method disclosed by Needham in view of Nichols in further view of Ichihara in order to maximize memory space.

**11. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Needham in view of Nichols in further view of Ichihara and Official Notice.**

**[Claim 11]** Needham in view of Nichols in further view of Ichihara disclose a method of correcting a time/date value associated with a digital image after the image is transmitted to a remote location (*refer to the rejection of claims 9 and 12*). However, Needham in view of Nichols in further view of Ichihara does not disclose that the time/date value can be corrected before the image is transmitted.

Official notice is taken that it is well known in the art to process image metadata before transferring image data to a storage location. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to process image metadata as is well known in the art in the method of correcting a time/date value of image metadata as disclosed by Needham in view of Nichols in further view of Ichihara in order to be able to transmit corrected image data to multiple locations.

**12. Claims 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Needham in view of Ichihara.**

**[Claim 24]** Needham discloses a method of correcting the date/time values associated with digital images captured by a digital camera wherein the received date/time value is provided by a separate device, i.e. a computer (*refer to the rejection of claim 20 and c. 2, ll. 6-35*). However, Needham does not disclose that the computer is a network server.

Ichihara discloses a network server in communication with a digital camera (*c. 3, ll. 3-10*). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use a network server as disclosed by Ichihara as the computer in the method disclosed by Needham in order to make traveling and remote usability more convenient (*refer to the discussion in Ichihara c. 1, ll. 10-43*).

**[Claim 25]** Needham discloses a method of correcting the date/time values associated with digital images captured by a digital camera wherein the received date/time value is provided by a separate device, i.e. a computer which is a "Time Service" center (*refer to the rejection of claim 20 and c. 2, ll. 6-35*). However, Needham does not disclose that the computer is a network server.

Ichihara discloses a network server in communication with a digital camera (*c. 3, ll. 3-10*). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use a network server as disclosed by Ichihara as the computer in the method disclosed by Needham in order to make traveling and remote usability more convenient (*refer to the discussion in Ichihara c. 1, ll. 10-43*).

**[Claim 26]** Refer to the rejection of claim 25 and Ichihara further discloses that the digital camera communicates with the network server via a wireless network (*c. 4, ll. 18-28*).

**13. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Needham in view of Ichihara in further view of Official Notice.**

**[Claim 27]** Needham in view of Ichihara discloses a method for a digital camera to communicate wirelessly with an "Internet Time Service server". However, Needham in view of Ichihara does not disclose that the wireless network is an 802.11 network.

Official Notice is taken that it is notoriously well known in the art to communicate wirelessly using an 802.11 network. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use an 802.11 network as is well known in the art in the method for a digital camera to communicate wirelessly with a "Internet Time Service server" disclosed by Needham in view of Ichihara in order to transmit image data in a standard, widely adopted protocol that is used and accepted by many devices developed by varying manufacturers.

**14. Claims 28-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Needham in view of Sites (US 6,728,880).**

**[Claim 28]** Needham discloses a method for correcting the date/time values associated with digital images captured by a digital camera, comprising:

- a) providing power to a real-time clock of the digital camera (*c. 1, l. 62 – c. 2, l. 5*);
- b) setting an initial date/time value for the real-time clock (*c. 1, l. 62 – c. 2, l. 5*);
- d) enabling the real-time clock to count time from the initial date/time value (*c. 1, l. 62 – c. 2, l. 5*);
- e) receiving a date/time value (*c. 2, ll. 6-35*);

f) synchronizing a current date/time value of the real-time clock with the received date/time value (*c. 2, ll. 6-35*). Also refer to *c. 2, l. 46 – c. 3, l. 37* and *Figures 4 and 5*.

However, Needham does not disclose c) storing, in a non-volatile memory of the digital camera, a first clock status value indicating that the real-time clock has been set to the initial date/time value; and

g) storing, in the non-volatile memory of the digital camera, a second clock status value indicating that the real-time clock has been synchronized with the received date/time value.

Sites discloses a method of correcting a clock value in a local electronic device (*"digital appliance"*, *c. 2, ll. 3-12*) using a master clock in a second electronic device (*c. 2, ll. 3-25*) comprising storing, in a non-volatile memory of the local electronic device, a first status value indicating that the real-time clock has been set to the initial date/time value (*c. 2, l. 26 – c. 3, l. 3; c. 3, l. 46 – c. 4, l. 14*); and

g) storing, in the non-volatile memory of the local electronic device, a second clock status value indicating that the real-time clock has been synchronized with the received date/time value (*c. 3, ll. 4-45*).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to maintain a status of whether the local clock has been set by the master clock as disclosed by Sites in the method for correcting the date/time values associated with digital images captured by a digital camera disclosed by Needham in order to supply the clock housed in the digital camera with a trusted, correct time when necessary (*c. 1, ll. 24-58 of Sites*).

**[Claim 29]** Refer to the rejection of claim 28 and Needham further discloses using the digital camera to capture and store a plurality of digital images and associated date/time values provided by using the real-time clock prior to synchronizing the real-time clock with the received date/time value (*c. 1, l. 62 – c. 2, l. 45*). Also refer to *c. 2, l. 46 – c. 3, l. 37 and Figures 4 and 5*.

**[Claim 30]** Refer to the rejection of claim 28 and Needham further discloses modifying the date/time values associated with each of the plurality of digital images after synchronizing the real-time clock with the received date/time value (*c. 2, ll. 23-45*).

**[Claim 31]** Refer to the rejection of claim 28 and Needham further discloses that the plurality of digital images are stored in a corresponding plurality of digital image files, and each digital image file includes metadata (*c. 1, l. 62 – c. 2, l. 5*). However, Needham does not disclose that the metadata indicates a clock status value.

Sites discloses storing a clock status value indicating whether a clock in a digital device has been updated (*refer to the rejection of claim 28*). Therefore, it would have been obvious to one of ordinary skill in the art to store the clock status value as disclosed by Sites in the metadata disclosed by Needham in order to maintain all time/date metadata with the associated image it belongs to.

### **Conclusion**

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hartman, Jr. (US 5,500,897) and van der Kaay et al. (US



6,393,126) disclose systems and methods for correcting a clock value in an electronic device using a master clock in a different electronic device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard M. Bemben whose telephone number is (571) 272-7634. The examiner can normally be reached on 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571) 272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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